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Filing date: **03/01/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91181022
Party	Defendant Clean Pass of Atlanta
Correspondence Address	CLEAN PASS OF ATLANTA 1228 CHRISTIASA CROSSING LAWRENCEVILLE,, GA 30043 UNITED STATES meedom227@yahoo.com
Submission	Answer
Filer's Name	Alexander Lee
Filer's e-mail	meedom227@yahoo.com
Signature	/Alexander Lee/
Date	03/01/2008
Attachments	Answer - response to opposition.pdf (12 pages)(520715 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**In the matter of Application Serial No. 78/755527 for
AMERICAN DELI
Published in the Official Gazette on October 2, 2007**

American Deli Plus, Inc.,)	
)	
Opposer,)	
)	
vs.)	Opposition No.
)	
Yong Lee and Alexander Lee, d/b/a)	
Clean Pass of Atlanta,)	
)	
Applicant.)	
)	

RESPONSE TO OPPOSITION

COMES NOW YONG LEE and ALEXANDER LEE, d/b/a Clean Pass of Atlanta (hereinafter referred to as “Applicant”) and tenders Applicants’ Response to Opposition as tendered by American Deli Plus, Inc., and shows the Honorable Board as follows in support of Applicants’ opposition.

I. Pertinent Factual Background

Applicants have applied for the legal trade mark rights to American Deli, based on the purposes of continuing Applicants business operations in which the instant trade mark would be of the most beneficial benefit for Applicants’ business plan and plans for future expansion.

II. Relevant Factors Concerning American Deli Plus, Inc.

Counsel for American Deli Plus, Inc. (hereinafter referred to as the “Opposer”), has stated

that the Opposer “has used the American Deli Mark since in or about the 1980s and, consequently, owns common law rights to the mark(s) American Deli collectively, the “American Deli Marks”.

Hence, the Opposer has advanced their lateral interest in American Deli, has been ongoing since the “1980s”. The first inherent problem with this averment, claiming an interest in the instant trade mark since the 1980s is that their corporation was not filed with the Georgia Secretary of State until 2006. See Exhibit “A” as attached hereto.

Therefore, if as frivolously claimed by the Opposer that the Opposer has had an “ongoing” [interest] since the 1980s” **why did it take the Opposer obviously over TWENTY (20) YEARS before forming the instant corporation** IF the Opposer’s interest was supposedly as great as advanced in the Opposer’s Oppositon being in the “1980s” as claimed?

Likewise, as **Exhibit “A”** shows there **THREE (3)** other business names with the words “**American Deli**” in the corporate name. None of the three other business names with “American Deli” in their corporate name have been in existence prior to 2006, including the Opposer forming their corporation in the same year, excluding the original “American Deli” which was formed in 1994, and dissolved thereafter.

Of course, in light of the foregoing, the claims by the Opposer that the Opposer “**used the marks in interstate commerce for more than seven (7) years**” leaves the question that since the Opposer did not become a business until 2006, was the Opposer using a rubber stamp on some type of product during the five (5) years before establishing the Opposer’s present business operations?

In light of the fact that the Opposer has wilfully and deliberately advanced obviously false and misleading claims, then Applicant respectfully moves for the Trademark Trial and Appeal Board, to take the unrefutable evidence, as tendered by Applicant into due and valid consideration

into total consideration of the Opposers claims and the obvious tendered evidence which shows the same **not to be as valid or legitimate as advanced** and claimed in the Opposer's Notice of Opposition which has been tendered by counsel in behalf of the Opposer!

Applicant, out of due consideration Applicant checked with the Florida Department of State, Division of Corporations, and there are four (4) companies with the words "American Deli" in the same and the status check of those four (4) companies shows that three (3) of the four are currently inactive. And the Opposer has not registered with the Florida Division of Corporations, for doing business in the State of Florida, which would obviously invalidate the Opposer's possible interstate usage in the State of Florida. See Exhibit "B" as attached hereto.

Applicant's check with the State of Alabama, Tennessee and South Carolina, likewise shows no legitimate business activities by the Opposer in those states either. Hence the four (4) states surrounding the State of Georgia shows no legitimate business dealings by the Opposer in any of those states and thus the Opposer's claims of **"interstate commerce for more than seven (7) years"** **totally lacks any evidence or other valid considerable evidence whatsoever!!!**

Lastly, the Opposer has advanced that **"Opposer has made a substantial investment in advertising and marketing its services under the American Deli Marks."** Yet, if one go on Google, and does a search of American Deli or even American Deli Plus, and **LOW and BEHOLD**, that the Opposer's claims are of the same **fictitious nature** as to the Opposers claims of **"interstate commerce for more than seven (7) years"** holds the same **INFLATED CLAIMS!!!!!!**

III. Opposers Claims Against Applicant's Application

Lastly, the Opposer has advanced certain specific claims against the Applicant's business, to wit:

A. That Applicant's use of the trade mark will, "when and if used in connection with the good set forth in Applicant's application "is likely to cause confusion, or to cause mistake, or to deceive purchasers and potential purchasers."

In light of the various business using the word "American Deli" already doing business in the State of Georgia, obviously makes this averment totally frivolous and is being advanced as an open attempt of preying upon the expected ignorance of the Trademark Trial and Appeal Board as to the instant frivolous allegations, as advanced pursuant to this frivolous and obvious wilful bad faith averment, i.e., claim by the Opposer.

B. Opposer's branded services are widely recognized and known and associated with restaurants.

Once again, based on the un-refutable evidence of the other business using and incorporating American Deli, in part or pertinent part, is frivolous. Likewise, as heretofore advanced, the search of the internet clearly shows that the Opposer's claims are and have been advanced upon the planned ignorance of the Honorable Trademark Trial and Appeal Board accepting the Opposer's averments as truthful versus being advanced in bad faith. Taking into due consideration the fact that there are businesses in Florida, Alabama as well as South Carolina, which are using American Deli in part for their businesses, further shows that the Opposers claims have been advanced in wilful bad faith opposition.

Assuming that the Opposers claims, in some parts are or were true, taking into due consideration the frivolous claims of "interstate commerce for more than seven (7) years" then why haven't the Opposer advanced said trademark application "years" ago versus their now frivolous opposition claims being advanced in willful bad faith and/or harassment of Applicant's pending

application for said trademark.

It should also noted that the Applicants have previously had the formal name of American Deli & Crawfish King, in the State of Georgia, in the City of Forest Park, Georgia and requested the use of that name for several years as to that business adventure which was located at 4700 Jonesboro Road, Forest Park, Georgia. See Exhibit "C" as attached hereto.


IV. Applicant's TradeMark Application Should Be Granted

Taking the foregoing into total and due consideration, it is Applicant's position that the instant opposition has been advanced solely for the purposes of not having to change their name and/or lateral conduct if Applicant's Application is approved.

Had the Opposer been of such serious concern, then the Opposer would have filed for the instant trademark application instead of this Applicant. Since the Opposer obviously failed to take such conduct into due consideration then it is Applicant's position that the instant opposition, under the totality of the facts and evidence as tendered should be denied and Applicant's application being approved.


Applicants respectfully moves for the denial of the instant opposition upon taking into due consideration all of the foregoing evidence and facts which supports a denial of said opposition.

Respectfully submitted,


Clean Pass of Atlanta
Yong Lee and Alexander Lee
Applicant, In Propria Persona
630 Indian Acres Court
Tucker, GA 30084

Certificate of Service

I hereby certify that I have mailed a copy of Applicants' **Response to Opposition** to Paul T. Kim, Locke Lord Bissell & Liddell, LLP, The Proscenium, Suite 1900, 1170 Peachtree Street, N.E., Atlanta, GA 30309, by placing a copy of the same into an envelope as heretofore address and placed into the United States Mail this 29th day of February, 2008.



Yong Lee. Applicant

630 Indian Acres Court
Tucker, GA 30084

TRANSMITTAL INFORMATION
GEORGIA PROFIT OR NONPROFIT CORPORATIONS

DO NOT WRITE IN SHADED AREA - SOS USE ONLY

DOCKET #		PENDING #	<u>PY43822</u>	CONTROL #	<u>0623788</u>
DOCKET CODE	<u>311</u>	DATE FILED		AMOUNT RECEIVED	
TYPE CODE	<u>D</u>	EXAMINER		JURISDICTION (COUNTY) CODE	

NOTICE TO APPLICANT: PRINT PLAINLY OR TYPE REMAINDER OF THIS FORM

1. 060680688

Corporate Name Reservation Number (if one has been obtained; if articles are being filed without prior reservation, leave this line blank)

AMERICAN DELI PLUS, INC.

Corporate Name (List exactly as it appears in articles)

2. SEONG AE PYUN

770-234-0155

Name of person filing articles (certificate will be mailed to this person, at address below)

Telephone Number

5268 BUFORD HIGHWAY, SUITE D

Address

DORAVILLE

GA

30340

City

State

Zip Code

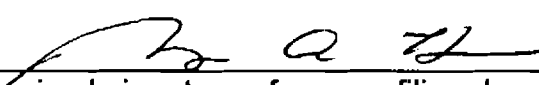
3.

Mail or deliver the following items to the Secretary of State, at the above address:

- 1) This transmittal form
- 2) Original and one copy of the Articles of Incorporation
- 3) Filing fee of \$100.00 payable to Secretary of State. Filing fees are NON-refundable.

Exhibit "A"

I certify that a Notice of Incorporation or Notice of Intent to Incorporate with a publication fee of \$40.00 has been or will be mailed or delivered to the official organ of the county where the initial registered office of the corporation is to be located. (List of legal organs is posted at web site; or, the Clerk of Superior Court can advise you of the official organ in a particular county.)


Authorized signature of person filing documents

03-10-2006

Date

Request certificates and obtain entity information via the Internet: <http://www.georgiacorporations.org>

Corporations Division
315 West Tower
#2 Martin Luther King, Jr. Dr.
Atlanta, Georgia 30334-1530

COUNTY : GEORGIA
REFERENCE : 0177
PRINT DATE : 04/04/2006
FORM NUMBER : 311

SEONG AE PYUN
5268 BUFORD HIGHWAY
SUITE D
DORAVILLE, GA 30340

CERTIFICATE OF INCORPORATION

I, Cathy Cox, the Secretary of State and the Corporations Commissioner of the State of Georgia, do hereby certify under the seal of my office that

**AMERICAN DELI PLUS, INC.
A DOMESTIC PROFIT CORPORATION**

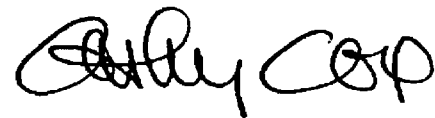
has been duly incorporated under the laws of the State of Georgia on the effective date stated above by the filing of articles of incorporation in the Office of the Secretary of State and by the paying of fees as provided by Title 14 of the Official Code of Georgia Annotated.

WITNESS my hand and official seal in the City of Atlanta and the State of Georgia on the date set forth above.



Exhibit "A" 





Cathy Cox
Secretary of State



Search

- By Business Name
- By Control No
- By Officer
- By Registered Agent
- Verify
- Verify Certification
- New Filing
- Click here to file online for:
- New Limited Liability Company (LLC)
- New Business Corporation
- New Non-Profit Corporation
- New Professional Corporation (PC)
- Annual Registration
- Annual Registration
- Name Reservation
- File Name Reservation
- Online
- Online Orders
- Register for Online
- Orders
- Order Certificate of Existence
- Order Certified Documents

View Filed Documents

Date: 2/26/2008 (Annual Registration History
etc.)

File Annual Registration Online

or

Print A Paper Annual Registration Form

PLEASE NOTE: To download your Annual Registration forms you will need Adobe Reader to view and/or print. If you do not have Adobe Reader installed on your computer, click the "Get Adobe Reader" button on the right to download the reader free of charge from the Adobe website.

Business Name History

Name	Name Type
AMERICAN DELI PLUS, INC.	Current Name

Profit Corporation - Domestic - Information

Control No.:	0623788
Status:	Active/Owes Current Year AR
Entity Creation Date:	3/16/2006
Jurisdiction:	GA
Principal Office Address:	5268 BUFORD HWY/STE. D Duluth GA 30097
Last Annual Registration Filed Date:	2/2/2007
Last Annual Registration Filed:	2007

Registered Agent

Agent Name:	CHONG C. KIM
Office Address:	3634 HENLEY PARK CT. ATLANTA GA 30340
Agent County:	FULTON

Officers

Title:	CEO
Name:	CHONG C. KIM
Address:	3634 HENLEY PARK CT. ATLANTA GA 30340

Title:	CFO
Name:	CHONG C. KIM
Address:	3634 HENLEY PARK CT. ATLANTA GA 30340

Title:	Secretary
Name:	CHRISTINE HYECHON KIM
Address:	3634 HENLEY PARK CT. ATLANTA GA 30340

Exhibit "P-3"



- Search
- ▶ [By Business Name](#)
 - ▶ [By Control No](#)
 - ▶ [By Officer](#)
 - ▶ [By Registered Agent](#)
 - Verify
 - ▶ [Verify Certification](#)
 - ▶ [New Filing](#)
 - ▶ [Click here to file online for:](#)
 - ▶ [New Limited Liability Company \(LLC\)](#)
 - ▶ [New Business Corporation](#)
 - ▶ [New Non-Profit Corporation](#)
 - ▶ [New Professional Corporation \(PC\)](#)
 - ▶ [Annual Registration](#)
 - ▶ [Annual Registration](#)
 - ▶ [Name Reservation](#)
 - ▶ [File Name Reservation](#)
 - ▶ [Online](#)
 - ▶ [Online Orders](#)
 - ▶ [Register for Online Orders](#)
 - ▶ [Order Certificate of Existence](#)
 - ▶ [Order Certified Documents](#)

Search Type: Starting With

Search Date: 2/26/2008

Search Criteria: American Deli

Search Time: 09:25

Click on the Business Entity Name or Control No to view more information.

Records Found: 7

Business Entity Name	Control No	Type	Status	Entity Creation Date
AMERICAN DELI & WINGS, INC.	07011567	Profit Corporation	Active/Owes Current Year AR	1/31/2007
AMERICAN DELI HOUSE, INC.	0635552	Profit Corporation	Active/Owes Current Year AR	5/23/2006
AMERICAN DELI PLUS, INC.	0623788	Profit Corporation	Active/Owes Current Year AR	3/16/2006
AMERICAN DELI, INC.	0644958	Profit Corporation	Active/Owes Current Year AR	6/16/2006
AMERICAN DELI, INC.	K410777	Profit Corporation	Automated Administrative dissolution/Revocation	4/25/1994
AMERICAN DELIVERY CORPORATION	J803298	Profit Corporation	Automated Administrative dissolution/Revocation	2/10/1988
AMERICAN DELIVERY SYSTEMS, INC	08004073	Profit Corporation	Active/Owes Current Year AR	1/15/2008

Records Returned 1 of 7 total 7

Exhibit

B

A

FIGURE. IF RETURN IS ADDED IT
WILL BE CLOSELY EXAMINED.

1. GROSS DOLLAR
- VOLUME

2. NUMBER OF
PERSONNEL

P.O. BOX 69
FOREST PARK, GA 30298-0069
(404) 366-4720

MUST BE COMPLETED & RETURNED
PRIOR TO: 12/15/2006

PLEASE READ CAREFULLY BEFORE COMPLETING
(NO P.O. BOXES PLEASE)

PLEASE PRINT

AMOUNT DUE

PENALTY

TOTAL

TRANSIENT

☐

STATIONARY

☒

722

BUSINESS NAME & ADDRESS

AMERICAN DELI & CRAWFISH KING
4700 JONESBORO ROAD SUITE B
FOREST PARK, GA 30297

PROPERTY LOCATION IF OTHER
THAN MAILING ADDRESS

NONE

NOTE: BUSINESS TAX DEPARTMENT WILL CALCULATE
FEE AND YOU WILL BE BILLED ACCORDINGLY.
FOR FEE SCHEDULE CONTACT BUSINESS TAX
DEPARTMENT.
NON-TRANSFERABLE, INEFFECTIVE UPON
CHANGE OF OWNERSHIP OR LOCATION.

IMPORTANT

IF YOU ARE LICENSED BY THE
COUNTY OR STATE, A COPY OF YOUR
LICENSE(S) MUST BE SUBMITTED WITH THIS
APPLICATION.

Exhibit "C"



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Entity Name Search

Entity Name List

Corporate Name	Document Number	Status
THE AMERICAN DELI, INC.	G64019	INACT
AMERICAN DELIGHTS, INC.	M31148	INACT
AMERICAN DELI IMPORT LLC	L07000010565	ACT
AMERICAN DELI & RESTAURANT, INC.	K43235	INACT
AMERICAN DELIVERY INC.	P02000000164	INACT
AMERICAN DELIVERY, INC.	P06000084912	INACT/UA
AMERICAN DELIVERY, INC.	P94000028213	INACT
AMERICAN DELIVERY CO, INC.	S23024	INACT
AMERICAN DELIVERY & ASSEMBLE, INC.	P04000006650	INACT
AMERICAN DELIVERY SERVICE, LLC	M99000001155	INACT
AMERICAN DELIVERY SERVICE COMPANY	853298	INACT
AMERICAN DELIVERY SERVICES, INC.	P06000030979	ACT
AMERICAN DELIVERY SYSTEMS, INC.	F20297	INACT
AMERICAN DELIVERY SYSTEMS, INC.	P93000050580	INACT/UA
AMERICAN DELIVERY SYSTEMS, INC.	826731	INACT
AMERICAN DELTA CORPORATION	G59212	INACT
AMERICAN DELTA COLOR PAINTING, LLC	L05000065543	INACT/UA
AMERICAN DEMOLITION INC.	P00000057214	INACT
AMERICAN DEMOLITION LIMITED LIABILITY COMPANY	L05000005489	INACT
AMERICAN DEMOLITION, INC.	P08377	INACT
AMERICAN DEMOLITION & ENVIRONMENTAL SERVICES, INC.	P05000029251	ACT
AMERICAN DENIM, INC.	P97000009726	INACT/UA
AMERICAN DENTAL, INC.	P95000023889	INACT
AMERICAN DENTAL BENEFIT CONSULTANT, INC.	P96000041598	INACT

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Exhibit "D"